

Remarks/Arguments:

The Applicants respectfully traverse the Examiner's rejection of the claims and submit the following arguments for the Examiner's consideration.

Claim 6 presently on file recites:

A carrying case with adaptable internal dimensions for accommodating contents of different sizes and shapes, comprising:

 a plurality of internal side walls, said plurality of internal side walls including one of either a hook or loop fastener; and

 a plurality of stackable shock-absorbent spacers for insertion between the side walls and said contents;

 wherein a hook and loop fastening system is provided to couple at least one of said plurality of stackable shock-absorbent spacers to at least one of said plurality of internal side walls and to couple adjacent ones of said stackable shock-absorbent spacers to one another.

As previously submitted, Shawler discloses a corrugated cardboard packing carton for transportation of rectilinear articles such as framed pictures and mirrors. L-shaped corner inserts are included to provide lateral support to the article during transportation. The L-shaped corner inserts include a plurality of detachably joined sections that are removable to allow for sizing of the inserts to accommodate articles of different sizes.

As submitted and as conceded by the Examiner, Shawler fails to teach or suggest internal side walls including one of either a hook or a loop fastener and a hook and loop fastening system provided to couple at least one of said

plurality of stackable shock-absorbent spacers to at least one of said plurality of internal side walls and to couple adjacent ones of said stackable shock-absorbent spacers to one another.

Geary discloses a restraint for glass sheets. The restraint is L-shaped and includes a hard outer layer and a compressible inner layer laminated to the hard outer layer. The restraints are connected to a strap or belt for restraining the glass sheets. Geary also fails to teach or suggest internal side walls of a carrying case that include one of either a hook or loop fastener and a hook and loop fastening system provided to couple at least one of said plurality of stackable shock-absorbent spacers to at least one of said plurality of internal side walls.

In rejecting the claims, the Examiner relies on the Aileo reference for teaching hook and loop fasteners on both sides of the shock absorbing pads and the mounting location to connect two or more shock absorbing pads. The Examiner asserts that it "would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the hook-and-loop fasteners of Shawler-Geary on both sides of the spacers and the box sidewalls (i.e. the mounting location) as taught by Aileo in order to connect two or more spacers".

Aileo discloses a protective helmet that includes ear cup assemblies. Shock absorbing pads can be secured to the outer surface of the ear cup assemblies and to each other, using hook and loop fasteners (i.e., Velcro). As previously submitted, Aileo fails to teach or suggest coupling spacers to the internal walls of a carrying case. In fact, Aileo teaches a helmet and not a carrying case as claimed in the present application.

In rejecting the claims, the Examiner has simply stated that it would have been

obvious. The Examiner, however, has not provided any objective reason that one skilled in the art would have attempted to combine the cited references. As previously submitted, the Shawler reference teaches a corrugated cardboard packing carton. As disclosed, the inserts remain intact until they are to be utilized (see, for example, column 4, line 7). It is clear that the carton is intended for single use. Not only is there no teaching or suggestion of attaching the inserts to the sidewalls, there is no reason to do so in a single use carton and furthermore, the use of Velcro in such a carton would only unnecessarily increase cost of manufacture for a disposable item.

The Examiner is clearly picking and choosing portions of the cited prior art references in an attempt to assemble the carrying case as recited in Applicant's claim 6. The Examiner alleges that the Aileo teaches a hook and loop fastener on both sides of the shock absorbing pads and the mounting location to connect two or more shock absorbing pads. The Examiner, however, ignores the fact that the Aileo reference is not a carrying case and in no way relates to a carrying case. Furthermore, the Examiner ignores the fact that there is absolutely no teaching, suggestion or motivation to attempt to combine the Aileo reference with the Shawler reference. The mere fact that references can be combined or modified does not render the combination obvious unless the prior art also suggests the desirability of the combination. [See, for example, In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)].

It is therefore believed that the Examiner has improperly ignored the teachings of the prior art as a whole and the unique combination and arrangement of features recited in Applicant's claim 6. The Supreme Court has frequently warned against the use of "hindsight" in determining obviousness (see, for example, Diamond Rubber Co. v. Consolidated Rubber Tire Co., 220 U.S. 428

(1991)).

The Examiner is clearly using Applicants' claimed invention as a template in order to piece together the teachings of the prior art to render the claims obvious. It is impermissible to use the disclosure of the present invention as a "road map" for selecting and combining prior art disclosures. In In re Wesslau, 353 F. 2d 238, 147 USPQ 391 (CCPA 1965), the Court of Customs and Patent Appeals cautioned that "it is impermissible within the framework of Section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art."

Accordingly Applicants respectfully request reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) as being unpatentable over Shawler in view of Geary and Aileo.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

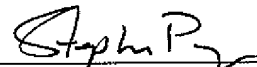
CONCLUSIONS

Applicant believes that this application is now in condition for allowance. To the extent that any issues remain to be resolved, however, applicant requests that the Examiner contact the undersigned to resolve these issues.

The Commissioner is authorized to charge the extension of time fees to the Credit Card as shown in the Credit Card Payment Form.

The Commissioner is also authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-3750.

Respectfully submitted,



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(date)